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7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF OREGON

9 DENISE GALLAGHER,

Civ. No. 07-1213-AA
O R D E R

10 Plaintiff,

11 vs.

12 LINCOLN COUNTY and BERNICE
13 BARNETT,

14 Defendants.

15 AIKEN, Judge:

16 Pursuant to Fed. R. Civ. P. 26, defendants' move to compel
17 plaintiff to produce documents responsive to defendants' first
18 request for production. Defendants' motion is denied.

19 DISCUSSION

20 1. Psychological Records

21 Defendants' request for production of plaintiff's
22 psychological records is denied. See Jaffee v. Redmond, 518 U.S.
23 1 (1996). Plaintiff requests damages only for general emotional
24 distress. Plaintiff does not allege intentional or negligent
25 infliction of emotional distress, unusually severe emotional
26 distress in light of her allegations, nor does she allege a
27 specific psychiatric injury or disorder. Therefore, I find no
28 waiver of the psychotherapist-patient privilege. See Fed. R.

1 Evid. 501. If plaintiff's allegations change, defendants are
2 granted leave to renew this discovery request.

3 2. Medical Records

4 Denied. Plaintiff does not allege any bodily injury, nor
5 does she allege she received medical treatment for any physical
6 injury or disorder resulting from her alleged treatment by
7 defendants. Plaintiff's claim for non-economic damage is for
8 emotional distress "that a reasonable woman would experience
9 under the same or similar circumstances." Plaintiff has not put
10 her physical condition at issue in this lawsuit, and therefore
11 her medical records are irrelevant. Again, however, if this
12 circumstance or plaintiff's allegations change, defendants' are
13 granted leave to renew this discovery request.

14 3. Employment Records

15 Plaintiff worked for defendants from September 16, 2006,
16 until her termination on November 9, 2006, less than two months.
17 Defendants have subpoenaed plaintiff's employment records for the
18 twelve years proceeding her work for defendants, from 1994 to
19 2006. Defendants are not entitled to more.

20 4. Lawsuits or Claims

21 _____Denied. The court relies on plaintiff's representation to
22 the court and defense counsel that she has no documents related
23 to employment claims, other than a prior workers' compensation
24 claim for an eye injury. The court notes that plaintiff has not
25 alleged an eye injury claim against defendants here.

26 5. Tax Returns

27 _____Denied. The court relies on plaintiff's statement that she
28 has not been employed since her termination by defendants, she

1 provided defendants with all of her W-2s for 2006, and provided
2 defendants with a document showing her income from unemployment.

3 6. Notes Kept by Plaintiff

4 Denied. The court relies on plaintiff's representation to
5 the court and defense counsel that she "kept no memorandum,
6 diaries, journals, appointment books, [or] calendars" that relate
7 to her employment with defendants. Any documentation that
8 plaintiff created at the direction of her attorney is covered by
9 the attorney-client privilege or work product doctrine, and
10 similarly, any documentation her attorney has recorded from
11 conversations with plaintiff is protected by the same privileges.

12 CONCLUSION

13 Defendants' motion to compel (doc. 17) is denied as stated
14 above. Further, defendants' request for telephone oral argument
15 is denied as unnecessary.

16 IT IS SO ORDERED.

17 Dated this 26 day of February 2008.

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21 /s/ Ann Aiken
22 Ann Aiken
23 United States District Judge
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